

PATENT
450111-03686**REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-15 are currently pending. Claims 1, 8 and 15 are independent.

II. ALLOWABLE SUBJECT MATTER

Applicants thank the Examiner for noting that claims 4 and 11 recite allowable subject matter.

III. REJECTIONS UNDER 35 U.S.C. §103

Claims 1-3, 5-10 and 12-17 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,570,918 to Rademacher in view of U.S. Patent No. 6,647,015 to Malkemes et al (hereinafter merely "Malkemes"). Applicants respectfully traverse this rejection

Independent claim 1 recites, *inter alia*:

“a plurality of branch processing means . . . each branch processing means corresponding to a respective one of the base stations and . . . arranged to modify the received signal by the operations of:
(i) data equalization, based on a respective filter using a respective set of weights . . .” (emphases added)

Claim 1 recites, “a plurality of branch processing means . . . each branch processing means corresponding to a respective one of the base stations.” In the present invention, there are

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a plurality of base stations. The receiver of the present invention is part of a communication system including a plurality of base stations. Each base station transmits a respective CDMA signal including data intended for each of a set of one or more of the receivers. The receiver of the present invention, has a plurality of branch processing means, each one of the branch processing means corresponding to one of the base stations.

Applicants reiterate the arguments presented in reply to the Office Action of August 8, 2005 as applies to Rademacher.

As understood by Applicants, Malkemes discloses a residential communications gateway receives incoming communications signals and broadcasts those signals throughout a residence. Each communications appliance within the residence includes a receiver that is has an antenna array and a multipath signal processor. Thus, Malkemes is a residential communications device that receive a signal that is broadcast throughout the residence. Summary and FIG. 1.

The apparatus of Malkemes uses two antennae (106A, 106B) to receive a single signal and reduce multipath interference. The signal received by the antennae are provided to separate spatial equalizers (310, 312). "At least two antenna inputs are equalized and combined to reduce the effects of multipath encountered in a home environment." Col. 6, lines 26-40.

Malkemes just does not supply the element missing from Rademacher. There is no suggestion that the receivers of Malkemes are receiving signals from "a plurality of base stations" as recited in claim 1 of the present invention. Indeed, there is no corresponding element of Malkemes with a plurality of base stations. The gateway (104) receives input signals from a plurality of sources (102) such as a cable feed, a plain old telephone system (POTS) feed, a satellite TV feed, etc. Col. 2, lines 35-39 and FIG. 1. Element 102 can not correspond with the "plurality of base stations" because they do not transmit to the receivers. They transmit to the

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Gateway (104). Gateway (104) also can not correspond with the “plurality of base stations” because that element is merely a pair of antennae to broadcast a modulated signal from a transceiver (216). Thus, the spatial equalizers (310, 312) are not, indeed can not, “correspond[] to a respective one of the base stations” as recited in claim 1 of the present application.

Thus, Malkemes does not teach or suggest, “each branch processing means corresponding to a respective one of the base stations” as recited in claim 1 because Malkemes does not have a plurality of base stations. Without the disclosure of multiple base stations, there is no motivation to combine the mobile device of Rademacher with the stationary device of Malkemes.

Claim 1 is patentable over Rademacher and Malkemes because those references taken alone or in combination do not disclose, teach or suggest each and every feature recited in the claim. In particular, the references do not disclose, “a plurality of branch processing means . . . each branch processing means corresponding to a respective one of the base stations” as recited in claim 1.

For reasons similar or somewhat similar to those described above with regard to independent claim 1, independent claims 8 and 15 are also believed to be patentable.

IV. The Office Action Fails to Show Proper Motivation to Combine References

As discussed by the Court of Appeals for the Federal Circuit, a proper conclusion of obviousness under 35 U.S.C. 103 requires that there be some motivation in the prior art that suggests the claimed invention as a whole:

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"Our case law makes clear that the best defense against hindsight-based obviousness analysis is the rigorous application of the requirement for a showing of a teaching or motivation to combine the prior art references." *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999). "Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight." *Id.*

As further explained by the Federal Circuit:

[A]n Examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue . . . To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show motivation to combine the references that create the case of obviousness.

In re Rouffet, 149 F.3d 1350, 1357 (Fed. Cir. 1998).

The Office Action (Jan. 23, 2006) does not point to any teaching, suggestion or incentive supporting the combination of the Rademacher and Malkemes references. The Office Action provides the conclusory and scant explanation for combining the references as, "in order to provide users with a flexible environment for using and locating their communication appliances." These words, from Malkemes, are vague references of a desired outcome that do not suggest combining references.

First, the claims of the present invention are directed to a receiver in a communication system having a plurality of base stations. This is consistent with Rademacher. However, Malkemes does not include a plurality of base stations. Indeed, Rademacher is a stationary device while the present invention is a mobile device. There is no reason that one would look to combine the references.

Second, the plurality of base stations of the present invention correspond with a respective one of the recited plurality of branch processing means. Rademacher also discloses a

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plurality of base stations but not the plurality of branch processing means. Because Malkemes does not have a plurality of base stations there can be no suggestion of correspondence with the Malkemes spatial equalizers. Thus, without the plurality of base stations, there is no reason to combine Malkemes and Rademacher.

V. DEPENDENT CLAIMS

The other claims are dependent from one of the claims discussed above and are therefore believed patentable for at least the same reasons. Because each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

CONCLUSION

Claims 1-15 are in condition for allowance. In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

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In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

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